REMARKS

Claims 28-29 and 64-66 are all the claims pending in the application. Claims 28 and 64-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wreede et al. (US 5,499,118) in view of Dausmann et al. (US 5,825,514), Moss et al. (US 5,016,953), and Weber (US 3,647,289). Claims 29 and 66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wreedle in view of Moss and Weber. By this Amendment, Applicant is amending claims 28 and 29.

§103 Rejections

Claims 28 and 64-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wreede et al. (US 5,499,118) in view of Dausmann et al. (US 5,825,514), Moss et al. (US 5,016,953), and Weber (US 3,647,289). Applicant respectfully traverses.

Claim 28 recites "replacing said first reflection type hologram with a second reflection type relief hologram..." The Examiner concedes that Wreede does not explicitly teach or suggest this element of the claim. The Examiner argues that Wreede achieves the same result in saving a first and second reflection type relief hologram simultaneously. The Examiner further argues that it would be obvious to one skilled in the art to modify Wreede to record the first and second transmission type holograms one at a time as desired to allow more control for the recording process. Applicant respectfully submits that it is not obvious to modify Wreede to record the holograms separately. Wreede asserts in the background of the invention that recording two holograms in a single layer presents various problems. It then purports to solve those problems by performing simultaneous copying of two holograms. Simultaneous copying is not the same as replacing a first transmission type hologram with a second transmission type

hologram. Wreede fails to teach or suggest this modification to the disclosure, which must be found for a modification to applied art to render the current invention obvious. The Examiner must demonstrate, using only objective evidence or suggestion from the applied prior art, that one of ordinary skill would have been lead to the claimed invention as a whole without recourse to Appellant's disclosure. See: In re Oetiker, 977 F.2d1443, 1447-48, 24USPQ2d 1443, 1446-47(Fed.Cir.1992); In re Fine 837 F.2d1071, 1074-75, 5USPQ2d 1596, 1598-1600(Fed.Cir.1988). As such, the Examiner fails to provide a reference, or a quoted teaching or suggestion from Wreede, in which the first transmission type hologram is replaced by the second transmission type hologram. Because there is no motivation to combine the references, claim 28 should be patentable over the applied art.

Additionally, there must be some showing of the obviousness of the claim as a whole, not the discrete parts to establish prima facie obviousness. See: In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999), limited on other grounds by In re Gartside, 203 F.3d 1305, 53 USPQ2d 1769 (2000). Here, the Examiner appears to be using hindsight in creating the current invention, as there is no clear showing of obviousness in the combination of the applied references. None of the additional references applied against the current invention, Weber, Dausmann, or Moss teach or suggest replacing a first transmission type hologram with a second transmission type hologram as claimed in claim 28.

Further, claim 1, as amended, recites a photopolymer capable of recording a volume hologram. Wreede, in the background of the invention, teaches that "[r]ecording the two overlapping holograms in a single recording layer...can be performed...but not with a photopolymer." See Wreede, col. 1, lines 25-29. This disclosure by Wreede teaches away from

the claimed invention, which explicitly claims a photopolymer. Therefore, because Wreede teaches away from the claimed invention, there is no motivation to combine the references. Even if a proper motivation were found, the combination would not result in the claimed invention. Claim 28 is be patentable over the applied art.

Claims 64 and 65 should be patentable at least by virtue of their dependency from claim 28.

Claims 29 and 66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wreedle in view of Moss and Weber. Applicant respectfully traverses.

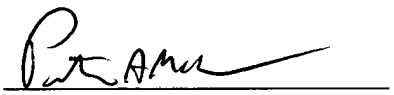
Claim 29 should be patentable for reasons analogous to those recited above for claim 28. Claim 66 should be patentable at least by virtue of its dependency from claim 29.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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